

Exhibit C

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLYDE RAY SPENCER, MATTHEW
RAY SPENCER, and KATHRYN E.
TETZ,

Plaintiffs,

vs.

NO. 3:11-cv-05424-BHS

FORMER PROSECUTING ATTORNEY
FOR CLARK COUNTY JAMES M.
PETERS, DETECTIVE SHARON
KRAUSE, SERGEANT MICHAEL
DAVIDSON, CLARK COUNTY
PROSECUTOR'S OFFICE, CLARK
COUNTY SHERIFF'S OFFICE, THE
COUNTY OF CLARK and JOHN DOES
ONE THROUGH TEN,

Defendants.

DEPOSITION UPON ORAL EXAMINATION OF JAMES MICHAEL DAVIDSON

Monday, November 5, 2012
Olympia, Washington

1 APPEARANCES:

2 FOR THE PLAINTIFF CLYDE RAY SPENCER
3 (VIA VIDEOCONFERENCE):

4 MS. KATHLEEN ZELLNER
5 KATHLEEN T. ZELLNER & ASSOC.
6 DOUGLAS JOHNSON
Esplanade IV
1901 Butterfield Rd., Ste. 650
Downers Grove, IL 60515

7 FOR DEFENDANT JAMES M. PETERS:

8 MS. PATRICIA FETTERLY
9 ASSISTANT ATTORNEY GENERAL
P.O. Box 40126
Olympia, WA 98504-0126

10 FOR DEFENDANT DETECTIVE SHARON KRAUSE:

11 MR. GUY BOGDANOVICH
12 LAW, LYMAN, DANIEL
KAMERRER & BOGDANOVICH, P.S.
13 P.O. BOX 11880
Olympia, WA 98508-1880

14 FOR DEFENDANT SERGEANT MICHAEL DAVIDSON:

15 MR. JEFFREY A.O. FREIMUND
16 FREIMUND JACKSON TARDIF &
BENEDICT GARRATT, PLLC
17 711 Capitol Way South, Ste. 602
Olympia, WA 98501

18 ALSO PRESENT:

19 SHARON KRAUSE
20
21
22
23
24
25

ZELLNER (James Michael Davidson, 11/5/12)

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1 Q (By Ms. Zellner) Yes. Well, give me again any scenario
2 that would justify a detective taking home evidence from a
3 file, a criminal file. Give me any scenario that would
4 justify that. I've never heard of that. I'd like to hear
5 it.

6 MR. FREIMUND: I'd object again. Asked and
7 answered.

8 Go ahead and answer again.

9 A Again, it's only speculative. I don't know the
10 circumstances under which that videotape was taken home. I
11 can't give you a scenario if I don't know what
12 circumstances it was taken home. If it was used as a
13 training aid, for instance, that might be one possibility.
14 The case was resolved.

15 Q (By Ms. Zellner) Do you have -- do you have information
16 that the videotape in the last 25 years has been used as a
17 training aid by Sharon Krause?

18 A I have no information to that, no, ma'am.

19 Q Do you have any information as to what the videotape was
20 being used for when it was in the possession of Sharon
21 Krause at her home?

22 A I believe I just answered that. I said no.

23 Q Is it correct, then, that you never instructed Sharon
24 Krause to take the videotape to her house?

25 A First of all, let me restate, I had no knowledge about the

ZELLNER (James Michael Davidson, 11/5/12)

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1 disposition of the videotape.

2 Q If you could just answer the question. It's a simple
3 question, okay?

4 A I'm answering the question, to the best of my ability.

5 Q It's a "yes" or "no." Did you instruct Sharon Krause to
6 take the videotape to her home?

7 A No.

8 Q Did you give Sharon Krause permission to take the videotape
9 to her home?

10 A No, with an exclamation.

11 Q Did the videotape have any type of identification on it
12 that would show that it was in the Ray Spencer file? Did
13 it have a number? Did it have an inventory number? Did it
14 have anything like that?

15 A Again, I can't give you an answer to that question because
16 I've not seen the videotape, the particular tape in
17 question.

18 Q Okay. In 1984 and 1985, when evidence was gathered in a
19 case, physical evidence, was it given an inventory number?

20 A The inventory number would have been the case number that
21 was assigned to that particular investigation.

22 Q So if the videotape had a number on it, it would be the
23 case number of the file?

24 A That -- yes, ma'am.

25 Q And would all physical evidence be labeled with an

ZELLNER (James Michael Davidson, 11/5/12)

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1 inventory number?

2 A I can never make a statement of all. That would be --

3 Q Was that your procedure --

4 A -- the normal course or normal process, correct.

5 Q Did you at any time -- have you inquired in the department
6 about the chain of custody with the videotape at any time?

7 A Again, I'm going back to my original statement. I don't
8 know anything about or the circumstances involving the
9 specific videotape, so, no, I would not have made an
10 inquiry.

11 Q Were you present -- were you at work in the Sheriff's
12 Department on the day that Katie Spencer was brought in and
13 interviewed?

14 A I -- without looking at work records, I can't be specific,
15 no, ma'am.

16 Q So you don't know one way or the other? You may have been
17 present?

18 A I may have been; I may not have been. I had a number of
19 responsibilities.

20 Q Okay. Were you aware that Katie Spencer had been
21 interviewed at the Sheriff's Department?

22 A I believe if there was a report that reflected that she'd
23 been interviewed at the Sheriff's Department and I reviewed
24 that report, I would have been aware of that, yes.

25 Q You have reviewed a report of the videotaped interview?

ZELLNER (James Michael Davidson, 11/5/12)

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1 A I didn't say that. I said if there was a report that
2 reflected that interview.

3 Q Okay. Was there -- should there have been a report made of
4 the interview?

5 A I would normally say, and I can't say specifically
6 pertaining to this, but the normal course would be that you
7 would author a report pertaining to an interview of a
8 victim or witness or suspect.

9 Q And if I told you that no such report has been produced,
10 would you be surprised that a report wasn't made?

11 A I would only -- we're basing that upon your statement, not
12 to my personal knowledge. I don't know that there was no
13 report made.

14 Q You've never seen it, have you, a report made of the
15 videotaped interview?

16 A Again, I can't tell you that because I don't recall.
17 Without reviewing the entire file, I wouldn't know.

18 Q In the documents that we sent you, did you see a report of
19 the videotaped interview in those documents?

20 A Again, if I have permission to go back and reflect through
21 the reports, I will look to see if I have any record of
22 that.

23 MS. ZELLNER: Okay, why don't we take a
24 ten-minute break and let him look through those documents
25 and tell me if there's a report that we've all missed.

ZELLNER (James Michael Davidson, 11/5/12)

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1 MR. FREIMUND: Okay.

2 (Recessed at 11:16 a.m.)

3 (Reconvened at 11:27 a.m.)

4 Q (By Ms. Zellner) So did you have an opportunity to look
5 through the documents I sent, to confirm whether there was
6 or was not a report made about the videotaped interview?

7 A There's no indication in the file, no, ma'am.

8 Q Okay. And was it part of the custom and practice of
9 prosecutors in Clark County to do interviews at the
10 Sheriff's Department?

11 A I cannot speak to customs and practices regarding
12 prosecuting attorneys' procedures.

13 Q Did you ever observe the prosecutor doing an interview at
14 the Sheriff's office?

15 A Off the top of my head I can not recall specifically an
16 incident where a prosecutor interviewed someone at the
17 Sheriff's office.

18 Q Were you ever told what the purpose of that videotaped
19 interview with Katie Spencer was at any point up to today?

20 A I don't specifically recall being told what the purpose of
21 that videotaped interview was. I have some slight recall.

22 Q Could you explain the slight recall you do have?

23 A I believe it was done for the purposes of the prosecuting
24 attorney's office to make a charging determination.

25 Q And who told you that, that that was the purpose?

ZELLNER (James Michael Davidson, 11/5/12)

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1 A Again, I can't recall whether I read it in a file or
2 whether I was given that information verbally. It could
3 have been from Denny Hunter during the course of our
4 conversations over the telephone years after this. This
5 case has gone on forever, so. . . .

6 Q Other than that, what you've called that slight
7 information, do you have any other knowledge as to the
8 purpose of the videotape being made of Kathryn Spencer?

9 A No, ma'am.

10 Q Have you ever discussed, up until today, the existence of
11 the videotape with Sharon Krause?

12 A I believe we had a conversation over the phone at some
13 point in time, probably within the last five years or less.

14 Q Tell me -- tell me about that conversation about the
15 videotape. What do you remember Sharon Krause saying to
16 you?

17 A My recollection is, is that she recalled finding the
18 videotape in her garage.

19 Q Did you -- did she explain to you why the videotape had
20 been made?

21 A I don't recall her making a statement in regards to that at
22 all, no.

23 Q Okay. Can you state with complete certainty, that during
24 the course of the investigation of Ray Spencer leading up
25 to the charges in February of 1985, that you did not review

C E R T I F I C A T E

I, DIXIE J. CATTELL, the undersigned Registered Professional Reporter and Washington Certified Court Reporter, do hereby certify:

That the foregoing deposition of JAMES MICHAEL DAVIDSON was taken before me and completed on the 5th day of November, 2012, and thereafter transcribed by me by means of computer-aided transcription; that the deposition is a full, true and complete transcript of the testimony of said witness;

That the witness, before examination, was, by me, duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the witness reserved signature;

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith securely sealing the deposition of JAMES MICHAEL DAVIDSON and promptly serving the same upon MS. KATHLEEN ZELLNER.

IN WITNESS HEREOF, I have hereunto set my hand this _____ day of _____, 2012.

Dixie J. Cattell, RPR, CCR
NCRA Registered Professional Reporter
Washington Certified Court Reporter CSR#2346
License Expires July 16, 2013.

Exhibit D

IN THE UNITED STATES DISTRICT COURT
IN THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLYDE RAYMOND SPENCER,

Petitioner,

vs.

JOSEPH KLAUSER, Warden, Idaho
State Institution; CHRISTINE
GREGOIRE, Attorney General,
State of Washington,

Respondents.

No. C94-5238RJB

ORIGINAL

DEPOSITION UPON ORAL EXAMINATION
OF
SHARON A. KRAUSE

DATE TAKEN: May 22, 1996

TIME: 10:30 a.m.

PLACE: Hall of Justice
Longview, Washington

SUZAN R. WELLS
Archer Associates, Inc.
P. O. Box 1092
Longview, Washington 98632
(360) 423-2195

Spencer002543

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

CLYDE RAYMOND SPENCER,)
)
 Plaintiff,)
)
VS)
)
JOSEPH KLAUSER, et al.,)
)
 Defendant.)

DEPOSITION OF KAREN KLEIN

APPEARANCES:

For the Plaintiff:

MR. PETER CAMIEL
Mair, Camiel & Kovach
710 Cherry Street
Seattle, WA 98104

For the Defendant:

MR. JOHN SAMSON
MR. MARK GARKA
Assistant Attorney General
P.O. Box 40116
Olympia, WA 98504

Reported by:

JANICE A. NICKELL, RPR
CRS NO. NICKEJA482J7

August 6, 1996

JANICE NICKELL

GROSHONG CHRISTEL ASSOCIATES

Spencer002151

1 A So in -- That's the specific reason. There are times
2 when one single report may go to records. There are
3 times when maybe it's a case file that goes. But I
4 couldn't just send this in and say included in that
5 report.

6 Q When you prepared reports with regards to an
7 investigation, how would those reports make their way to
8 the prosecuting attorney?

9 A At times -- Everything has to go into our records at the
10 sheriffs office. There may be times when if it was a
11 major case, we compile a notebook or a case file, it
12 goes into records, records makes a copy for the
13 prosecutor, and it's shipped over to him or her,
14 whatever the case may be. There have been times when
15 independently we may have copied it, and I've done this,
16 put a note on it and said I made copies for the PA so
17 they don't have -- because I'm making a copy for myself,
18 I do an additional copy for the prosecutor. So it could
19 go through records or we may have made a copy and
20 notified them we did that.

21 Q In Mr. Spencer's case, if I understand part of the
22 history of the case, it appears that you referred the
23 case or someone referred the case up to a King County
24 prosecutor, a King County deputy prosecutor to review in
25 the early stages. Do you recall that?

CERTIFICATE OF NOATRY PUBLIC

STATE OF WASHINGTON)
: ss.
County of Clark)

I, SUZAN R. WELLS, a notary public for the State of Washington, do hereby certify that SHARON A. KRAUSE, a witness, personally appeared before me at the time and place mentioned in the caption herein; that said witness was by me first duly sworn on oath, and examined upon oral interrogatories propounded by counsel; that said examination, together with the testimony of said witness was written by me in machine shorthand and thereafter reduced to typewriting; and that the foregoing transcript constitutes a full, true and accurate record of said examination of and testimony given by said witness, and of all other oral proceedings had during the taking of said deposition, and of the whole thereof.

Witness my hand and notarial seal the 28th day of May, 1996.



SUZAN R. WELLS, CSR #WELLSSR325BH
Notary Public for the State of
Washington, residing at Vancouver,
Washington. My commission
expires on 8/29/97.

Exhibit E

1 UNITED STATES DISTRICT COURT
 2 WESTERN DISTRICT OF WASHINGTON
 3 AT TACOMA

4 CLYDE RAYMOND SPENCER,

5 Petitioner,

6 v.

7 JOSEPH KLAUSER, Warden,
 8 Idaho State Institution;
 9 CHRISTINE GREGOIRE, Attorney
 10 General, State of Washington.

11 Respondent.

Docket No. C94-5238RJB

Tacoma, Washington
 September 5, 1996
 9:30 a.m.

12 VOLUME III
 13 TRANSCRIPT OF TRIAL
 14 BEFORE THE HONORABLE ROBERT J. BRYAN
 15 UNITED STATES DISTRICT JUDGE.

16 APPEARANCES:

17 For the Petitioner:

PETER A. CAMIEL
 Mair, Camiel & Kovach, P.S.
 710 Cherry Street
 Seattle, Washington 98104

18 For the Respondents:

JOHN J. SAMSON
 DONNA H. MULLEN
 Assistant Attorneys General
 Post Office Box 40116
 Olympia, Washington 98504-0116

21 Court Reporter:

Julaine V. Ryen
 Post Office Box 885
 Tacoma, Washington 98401-0885
 (206) 593-6591

24 Proceedings recorded by mechanical stenography, transcript
 25 produced by Reporter on computer.

COPY

1 JAMES M. PETERS, PETITIONER'S WITNESS, SWORN OR AFFIRMED
2 DIRECT EXAMINATION

3 BY MR. CAMIEL:

4 Q. Would you state your full name and spell your last name,
5 please.

6 A. My name is James Matthew Peters. P-e-t-e-r-s.

7 Q. And your professional address?

8 A. Box 32, Boise, Idaho.

9 Q. Mr. Peters, how are you currently employed?

10 A. I'm an assistant United States attorney in the District of
11 Idaho.

12 Q. Were you previously employed as a deputy prosecuting
13 attorney in Clark County?

14 A. Yes, I was.

15 Q. And were you the primary deputy prosecuting attorney in the
16 case involving Mr. Spencer?

17 A. That's true.

18 Q. Mr. Peters, do you recall when charges were initially filed
19 against Mr. Spencer?

20 A. No, I do not.

21 Q. Do you recall the fact that there was more than one
22 information filed against Mr. Spencer?

23 A. Yes.

24 Q. It was amended on occasion.

25 A. I do recall that.

1 from questioning, and during counseling, it's usually not
2 questioning. It's usually open-ended therapy and things come
3 up. I don't know if that's questioning.

4 Q. That's one reason why a lot of judges think these things
5 always should be on videotape, so we have a record of it,
6 because we really don't know --

7 A. Unfortunately --

8 Q. -- how these things occur.

9 A. -- parents don't videotape their children all the time every
10 day and disclosures don't come up in a planned setting.

11 Q. In this case, did you or the police, on your behalf or
12 working with you, investigate into the family situation these
13 kids were living in?

14 A. Which family situation?

15 Q. Well, the ones they were living in.

16 A. Well, Matt Hansen was living with Mr. Spencer and his wife,
17 and Matt Spencer and Kathryn Spencer were living during the
18 school year in Sacramento with their mother and during the
19 summer with Mr. Spencer and his wife. So I don't know what you
20 mean by ---

21 Q. I mean the California home. Was there any investigation
22 into that home or what was going on there to determine if some
23 of the precocious behavior of these children, precocious sexual
24 behavior and knowledge of these children grew out of whatever
25 was happening in that home?

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled matter.

JULAIN V. RYEN

January 15, 1997
Date

Exhibit F

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLYDE RAY SPENCER, MATTHEW RAY)
SPENCER and KATHRYN E. TETZ,)

Plaintiffs,)

vs.)

No. 11-cv-05424-BHS

FORMER DEPUTY PROSECUTING)
ATTORNEY FOR CLARK COUNTY JAMES)
M. PETERS, DETECTIVE SHARON)
KRAUSE and SERGEANT MICHAEL)
DAVIDSON,)

Defendants.)

VIDEOCONFERENCE DEPOSITION UPON ORAL EXAMINATION
OF

ARTHUR DAVID CURTIS

DATE TAKEN: December 10, 2012
TIME: 9:00 a.m.
PLACE: 613 W. 11th Street
Vancouver, Washington

COURT REPORTER: Teresa L. Rider, CRR, RPR, CCR

Rider & Associates, Inc.

360.693.4111

ARTHUR DAVID CURTIS 12.10.12

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1 possession and wait ten days before trial.

2 Q. Right. We're in agreement.

3 You would agree that the videotape which you
4 found out about in apparently 2009 and was made December
5 11th, 1984, had to be disclosed prior to the guilty plea
6 of Ray Spencer.

7 MR. VELJACIC: Object to form.

8 THE WITNESS: There was a discussion that
9 occurred after I became aware of that tape as to whether
10 or not it was Brady evidence. And I made the decision
11 to disclose it because I said something to the effect
12 I'm not going to split that hair.

13 BY MS. ZELLNER:

14 Q. Tell me about when that decision was made. Was
15 that made in 2009?

16 A. Yes.

17 Q. So you find out, I'm assuming for the first
18 time, that the video has been discovered by Sharon
19 Krause in her garage.

20 A. That was my understanding, yes.

21 Q. How are you informed of that information? Who
22 informed you?

23 A. My recollection is that she sent the tape with
24 a letter to my chief criminal deputy, Dennis Hunter - it
25 might have been Mike Kinnie, but I thought it was Dennis

ARTHUR DAVID CURTIS 12.10.12

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1 Hunter - and then thereafter, Mr. Hunter informed me of
2 the existence of the tape.

3 Q. Were you still the Clark County prosecutor at
4 the time that the tape was discovered in 2009?

5 A. Yes.

6 Q. And I'm assuming that you reviewed, then, the
7 tape, is that right, the video?

8 A. Yes.

9 Q. And then who did you instruct that it should be
10 disclosed?

11 A. Mr. Hunter and/or Mr. Kinnie.

12 Q. And tell me just the thought process leading up
13 to your decision to disclose it.

14 A. Well, when I reviewed the tape, I did not see
15 it as being Brady evidence myself. But I also, in
16 reviewing it, saw that the defense could take the
17 position that it was Brady evidence. And that's why
18 when we had the discussion about whether or not it
19 needed to be disclosed, I said I'm not going to split
20 that hair because I could see it from both sides.

21 Q. Right. And so then you ordered -- was it Mr.
22 Hunter, to disclose the video?

23 A. That's my recollection.

24 Q. And that occurred, I think, sometime in 2009.

25 A. It would have been shortly after it was

ARTHUR DAVID CURTIS 12.10.12

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CERTIFICATE

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3
4 STATE OF WASHINGTON)
5) ss.
6 County of Clark)

7 I, the undersigned Washington Certified Court
8 Reporter, pursuant to RCW 5.28.010 authorized to
9 administer oaths and affirmations in and for the State
10 of Washington, do hereby certify:

11 That the annexed and foregoing deposition
12 consisting of Pages 5 through 106 of the testimony of
13 each witness named herein was taken stenographically
14 before me and reduced to a typed format under my
15 direction;

16 I further certify that according to CR 30(e)
17 the witness was given the opportunity to examine, read
18 and sign the deposition after the same was transcribed,
19 unless indicated in the record that the review was
20 waived;

21 I further certify that all objections made at
22 the time of said examination to my qualifications or the
23 manner of taking the deposition or to the conduct of any
24 party have been noted by me upon each said deposition;

25 I further certify that I am not a relative or
employee of any such attorney or counsel, and that I am
not financially interested in the said action or the
outcome thereof;

I further certify that each witness before
examination was by me duly sworn to testify the truth,
the whole truth and nothing but the truth;

I further certify that the deposition, as
transcribed, is a full, true and correct transcript of
the testimony, including questions and answers, and all
objections, motions and exceptions of counsel made and
taken at the time of the foregoing examination and was
prepared pursuant to Washington Administrative Code
308-14-135, the transcript preparation format guideline;

ARTHUR DAVID CURTIS 12.10.12

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1 I further certify that I am sealing the
2 deposition in an envelope with the title of the above
3 cause and the name of the witness visible, and I am
4 delivering the same to the appropriate authority;

5 I further advise you that as a matter of firm
6 policy, the Stenographic notes of this transcript will
7 be destroyed three years from the date appearing on this
8 Certificate unless notice is received otherwise from any
9 party or counsel hereto on or before said date;

10 IN WITNESS WHEREOF, I have hereunto set my hand
11 and affixed my Washington State CCR Seal this 14th day
12 of December 2012.

13 Certified Court Reporter No. 2119
14 in and for the State of Washington
15 residing at Vancouver, Washington
16 My CCR certification
17 Expires 12-03-13
18
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